



## Frequently Asked Questions of the CPSIA - Version 2

### Licensing Inquiries

1) Do brand owners in the U.S. (e.g. DKNY) who license the right to make their branded products to other companies have to certify their licensees' imports of those licensed products? While the brand owner is not involved in the manufacture and import of the licensed products at all, it still appears to be covered as a "Private Label"

**No, the CPSC has relieved the foreign manufacturer and private labeler from certification responsibilities. The Private labeler will be responsible for providing a Certificate of compliance ONLY if they are also importer or domestic manufacturer.**

2) As a licensor of men's apparel is our certification necessary for the manufacturer or the importer?

**No, Please refer to Answer 1 for details.**

### Labeling Inquiries

3) What is the format for labeling on the products including what specific information is required?

**[Assuming this relates to the new CPSIA Section 105 toy and game advertising requirements], a cautionary statements shall be prominently displayed:**

- 1) in the primary language used in the advertisement;**
- 2) in conspicuous and legible type in contrast by typography, layout, or color with other material printed or displayed in such advertisement; and**
- 3) in a manner consistent with part 1500 of title 16, Code of Federal Regulations.**

4) Is there a grandfather clause for the product labeling? How will this new bill regulated?

**There is no grandfathering clause at this time for labeling.**

5) Please clarify the labeling requirements for all components of a game. For example: If I have a game that contain a game board, tokens, a cardboard spinner and a deck of 52 cards, does each and every one of the components have to be dated? i.e. all 52 cards???

**Tracking labels are required on the product and packaging to the extent practicable. The CPSC may provide more guidelines by rule. But as of now we do not have detailed information to answer the question. On February 20, the CPSC issued a Notice of Inquiry requesting comments and information about implementation of the tracking label requirement of CPSIA.**

6) Does the warning label that is required for the Internet advertisement, need to be on the same page as the product?

**Yes. Section 105 of the CPSIA states that a warning label for internet advertisement shall be displayed on or immediately adjacent to that advertisement. But the regulation implementing Section 105 does allow for the use of abbreviated warning labels under certain conditions.**



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7) Do labels on children apparel have to comply with the lead in substrate requirement?

***Based on the information available as of today (2-17-2009), the label would also be considered a separate component part of the product and would be required to comply with the lead requirements.***

8) Could hangtags & adhesive labels be used as tracking labels for textile type items?

***The law requires that markings with the specified information be permanent. Hangtags and adhesive labels are not permanent.***

9) Is there any more information available regarding the tracking labels for individual items?

***The information is provided in Section 103 of the CPSIA. The requirements and the meaning of the term extent practicable are not defined by the commission yet. On February 20, the CPSC issued a Notice of Inquiry requesting comments and information about implementation of this program.***

10) Can/will the accredited lab make the determination on the status of the "permanent" marking for lot numbers for tracking labels?

***Lab can visually determine the presence of the tracking label. However, they cannot perform the verification of the information on the label.***

### Testing Inquiries

11) If a product has been tested previously, does 3rd party testing apply to future re-orders of the same product?

***If the raw materials, design, supplier or manufacturer of the product changes retesting will be required. If everything remains same, the testing frequency would be determined by a reasonable testing program.***

12) Does 3rd party testing need to be done for all styles and color ways? Ex. A If a bedding crib set comes in 1 pattern and 8 different color ways, do all color ways need to be tested? Ex. B If the same exact fabrics are used on different products such as stroller blankets and bib/burps, can 1 fabric test apply to both products?

***Different colors of the fabric means that the fabric was dyed with different color pigments. As the raw materials changed the testing would be required for each color of the fabric.***

***Second question deals with component certification for end products. As of now, the Commission has stated that the final product has to be tested as the manufacturing process may contaminate the sample. Thus the final sample of bib/burp, blanket, etc will have to be tested, even though the same fabric was used in all products.***

13) What testing is required for children's bedding? Example, crib set

***Crib sheet and crib fitted sheet need to meet the following requirements:***

***1) Lead in paint/surface coating (if applicable): 16 CFR 1303***



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- 2) **Total lead content**
- 3) **Phthalates (crib sheet may be considered a child care article – used to facilitate sleep for age group 3 and under, and need to be tested for phthalate. Based on CPSC General Counsel's opinion in AAFA's Product Safety Meeting on December 4, 2008, phthalate testing will be required if the product contains plastic (for example: vinyl) part.**
- 4) **Flammability for crib sheet and crib fitted sheet is a voluntary standard (ASTM D1230) (Note: this is a voluntary standard and is not therefore legally required, although of course it is highly recommended and required by many retailers).**

14) If our customers market to adults but items are then used by children, what is our liability?

***If the products are designed, intended, marketed and sold to adults only, and are unintentionally or incidentally used by children (i.e., a refrigerator) they would not be considered a children's product. However, this has to be considered on a case by case basis and legal counsel should be sought.***

15) Will jewelry for adults have stricter requirements in the future?

***Adult jewelry is not regulated by any federal regulation (although it is conceivable that adult jewelry, like any consumer product, could be recalled for some safety hazard not covered by a regulation). If the CPSC should issue a safety regulation covering adult jewelry, the general public will be notified via Advance Notice of Public Rulemaking. Please note that there are a couple of state regulations (California, Minnesota) that regulate lead in adult jewelry.***

16) Can bulk items be tested and the results are applied to the various products incorporating the raw material. Example: Buttons used on garments.

***As of today, the Certificate of Compliance for a product has to be based on the testing of a final product. Component testing for final product certification is not currently allowed.***

17) Does children apparel need to test for small parts?

***Although 16 CFR 1501.3 exempts "children's clothing and accessories" from the small parts regulation, it is highly recommended to test due to:***

- 1) ***a letter from the CPSC Office of Compliance in which they recommend testing for small parts like buttons and snaps on clothing (see last page), and***
- 2) ***significant number of recalls for small parts hazard in clothing***

***Compliance is the key to ensure a safe product.***

18) Does it include testing children apparel hosiery?

***Children's hosiery (e.g., socks) is considered an article of wearing apparel and a children's consumer product, and needs to meet CPSC safety regulations, standards, bans, and rules.***

19) How standards apply to crystal glass stones used in children costume jewelry.

***The children's product would require compliance with the lead content ban, unless exempted by rule via the CPSC.***



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20) Is there any liability if the third-party test report reveals other non-safety related tests that have failed?

***The product must comply with all applicable regulations, standards, bans, and rules. However, if the product fails one of the performance (quality) standards the decision to sell would depend on the retailer/client.***

21) For 3rd party testing, does this have to be done on style/color/size or style/color or style level?

***GCC is needed for each style of the product. Therefore, in order to issue a GCC for each style, the retailer should have "evidence" to support the fact that each style meets the applicable CPSC bans and standards. This evidence is mostly through actual testing of the product. For 3rd party testing, each style of the product needs to be tested - CPSC does not allow component and composite testing. If a style has different sizes, all sizes need not be tested because the material used to make the product (e.g., apparel) is the same for all sizes. If there are different colors under one style, all colors need to be tested as the raw material (dye or print) is different from color to color.***

22) Will the CPSC conduct or expect an aging test to be performed for reasonably foreseeable use and abuse of the product? If so, how is this test to be performed?

***The CPSC has issued the following guidance in regards to reasonable foreseeable use and abuse:***

***Please see: <http://www.cpsc.gov/businfo/frnotices/fr09/leadinaccessibility.pdf>***

23) What is considered a reasonable time frame/schedule for testing? How old is considered too old?

***The CPSC has not specified in detail how a "reasonable testing program" is defined. They have given specific examples from the Consumer Product Safety Act – 16 CFR 1200's as a starting point for manufacturers to determine their testing program.***

24) Will third party testing be required on adult apparel?

***Adult apparel does not require testing at CPSC recognized third party labs under the CPSIA.***

25) How is a children's product determined? What about a diaper bag, bottle drying rack or wipes case?

***The following factors will be used in determining, if a product is a children's product:***

- 1) A statement by the manufacturer about the intended use of such product if such statement is reasonable;***
- 2) Whether the product is represented in its packaging, display, promotion or advertising as appropriate for use by children 12 years of age or younger;***
- 3) Whether the product is commonly recognized by consumers as being intended for use by a child 12 years of age or younger; and***
- 4) The Age Determination Guidelines issued by the Commission staff***



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26) If an item is marketed as an adult collectible & priced accordingly, would it still need to be tested to toy standards? I.e. model trains and high end dolls.

***If designed and intended primarily for adults, the items would not likely be defined as a children's product or toy, and require toy testing. However, when determining if an item is considered a toy, the CPSC will also take into consideration foreseeable use of the product, and factors such as a product's labeling, uses commonly recognized by consumers, and previous guidelines will apply.***

### Flammability Inquiries

27) Most of the amendments to the flammability act are changes in fines and timing. Are there other changes we need to know?

***For 16 CFR 1610 - Standard for the Flammability of Clothing Textiles, there have been changes to the refurbishing procedure (dry cleaning and washing) effective September 2008.***

28) Does the flammable fabrics act cover both adult and children's textiles? According to the act, garments containing any % of cotton and raised surface fibers will require certification. Does this include garments with raised fibers on the inside such as sweatshirts with inside napping, or only those with raised fibers on the outside surface?

***Yes, 16 CFR 1610 covers both children's and adult clothing textiles. According to the Act, exposed portions of the goods need to be tested. Therefore, although the raised fibers may be on the inside, a consumer can wear the garment inside out or unzipped, and therefore the raised fiber is now an exposed surface. Testing is required on raised surfaces made of non-exempt fibers such as cotton.***

### Lead Inquiries

29) Exactly what has to be tested-Example: Do we need to test 100% cotton fabric for lead?

***100% cotton fabric (undyed and unprocessed) will not be required to be tested as the CPSC has exempted certain materials. See below link: (NOTE: NOT FINAL EXEMPTIONS -- THEY ARE TEMP. STAYS IN ENFORCEMENT)***

***<http://www.cpsc.gov/cpscpub/prerel/prhtml09/09120.html>***

***The CPSC is currently working on possible exemptions to the lead content limits and requirements to test. Recently it announced an interim enforcement policy, which states that the agency will not impose penalties against anyone for making, importing, distributing or selling a children's product to the extent that it is made of certain natural materials such as cotton. However, the material must not have been treated or altered or undergone any processing that could result in the addition of lead.***

***See <http://www.cpsc.gov/cpscpub/prerel/prhtml09/09120.html> for more information.***



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30) What are the new lead limits in children's products?

***There are two set of limits for lead – lead in paint/surface coatings and lead content (substrate)***

***Lead in paint/surface coating***

- 1) Current limit 600 ppm***
- 2) Effective August 14, 2009 limit will be reduced to 90 ppm.***

***Lead content limits***

- 1) Effective February 10, 2009 – 600 ppm***
- 2) Effective August 14, 2009 – 300 ppm***
- 3) Effective August 14, 2011 – 100 ppm(if technologically feasible)***

31) Will the CPSC expect all textiles materials in children's products including low risk materials such as white cotton from an onsies, be trusted for lead in substrate?

***See Question 29.***

32) Will the lead paint certification be enforced on children's clothing accessories, such as buttons, zipper etc.? Will this certification also be enforced against the same adult clothing accessories?

***The lead paint certification will be required for children's clothing accessories. It will not be required for adult clothing accessories.***

33) Is there anything else we could be missing such as textile coloring processes that may contain lead?

***Control over the manufacturing process and the supply chain is required to eliminate lead contamination.***

34) Concerning Lead testing in surface coating & substrates allowable compositing - can you combine similar colors i.e. light blue, dark blue etc? Or, each shade of color requires its own test?

***Compositing of different colors or components is not allowed for lead testing.***

35) Besides lead and the six identified phthalates, what substances do you see being banned next from children's products?

***In textiles, there is a probability of banning formaldehyde. CPSC is to conduct a study on the use of formaldehyde in textiles and apparel to identify any risk to consumers.***

36) Are there any exempted substrates for the lead requirement, i.e. paper, plastic foam...?

***See Question 29.***

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### Phthalate Inquiries

37) Will the CPSC screen all types of plastics for phthalates or only certain high risk plastics, such as PVC, PU & EVA? Will they test PC, ABS? Do they expect companies to test all types of plastics for phthalates? If not, what criteria will they use to determine what materials have to be tested? Will they use criteria such as PVC, rubber, etc? Will any plastic be exempt from testing?

***As of now there are no material based exemptions for phthalate testing. The Commission received over 600 pages of comments/information regarding phthalate testing. The Commission will be issuing guidance soon.***

***On February 23, the CPSC published a draft approach prepared by staff for with guidance for determining which products constitute a "children's toy or child care article" and therefore are subject to the requirements of section 108 of the CPSIA.***

***Please see: <http://cpsc.gov/businfo/frnotices/fr09/draftphthalatesguidance.pdf>***

38) Do bibs & sleepwear fall under the phthalates requirement? Is there any other apparel that would fall under the phthalates requirement?

***1) A "child care article" means a product that a child 3 years or younger would use for sleeping, feeding, sucking or teething. Children's sleepwear (3 years or younger) would need to meet phthalate requirement as it is a "child care" article used to facilitate sleep. Also, bibs would be required to comply with phthalate requirements. Based on CPSC General Counsel's opinion in AAFA's Product Safety Meeting on December 4, 2008, phthalate testing will be required if the product contains plastic (for example: vinyl) part – e.g., vinyl bottom of footed children's pajamas, vinyl bibs.***

***2) The Commission has also issued guidance regarding phthalate applicability:  
<http://www.cpsc.gov/cpscpub/prerel/prhtml09/09130.html>***

39) If a plastisol print of PU/PVC lamination on a textile cannot be physically separated from the textile substrate, will the CPSC consider the phthalates compliance based on the printed or coated textiles as a whole, or will it be based on the print or PU/PVC laminate only?

***If the prints are inseparable from the textile substrate, the laminate would be tested as a substrate.***

40) Will sporting goods be exempt from phthalate testing?

***It depends on the actual sporting good. The CPSC has previously stated that the category of products known as "sporting goods" can include toys but not all sporting goods are toys. Indeed, the ASTM F963 toy safety standard, which becomes a mandatory consumer product safety standard, does not define sporting goods equipment to be a toy unless the product is a toy version of sporting goods equipment.***

***See link for guidance: <http://www.cpsc.gov/cpscpub/prerel/prhtml09/09130.html>***

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41) Is testing required for material in baby products that do not carry such metals? Chemicals? Ex: Does PVC need to be tested for BPA? ABS tested for Phthalates? PP tested for lead?

***Testing is required on each product for each applicable rule, regulation, standard, and ban irrespective of the probability of finding certain chemicals in the material.***

42) Many tests for USA and EU are virtually the same. i.e. EN71-3 for heavy metals and phthalate tested. Are these tests acceptable for C of C?

***The tests have to be performed as per the methods specified in the US rule, standard, or ban. Compliance with the EU regulations does not ensure and/or provide compliance with US regulations.***

43) We have an assortment of 30 painted toy rings; there are 5 total colors of paint. Can I have each of the 5 paint color and base material tested for phthalates and lead instead of the 30 individual rings?

***If all the 30 rings are sold as one product then testing each color and base material for lead and phthalates would suffice testing requirements.***

44) If there are 3 different items within the same mold separate pieces- different shapes but same material, do these get "tested" as 1 test or 3 separate tests for both phthalates and lead substrates?

***If the raw material used in manufacturing three shapes is the same and they are made within the same batch, any one piece can be tested for lead and phthalates as different shapes would not be a material alteration.***

45) How does CPSIA apply to packaging with phthalates?

***The disposable packaging does not need to meet the phthalate requirements. However, the CPSC has stated that if the packaging is intended to be reused, or used in conjunction with a child care article or with a children's toy while playing, such as a heavy gauge reusable bag used to hold blocks, it would be subject to the phthalates ban.***

### Manufacturer Inquiries

46) If a factory is collating components of a product manufactured or sources elsewhere, are they considered a manufacturer?

***The term manufactured means to manufacture, produce, or assemble. Thus if the components after procuring are assembled in to a final product at the factory they would be considered a manufacturer.***

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47) For certain materials and manufacturing processes batch control will be difficult if not impossible. For example, if you are making a wood toy, every tree is different and the CPSC is requiring retesting on changes in material you would have to test each finished toy based on the tree it came from, how can this be true? A second example would be for plastic injection molding, if you purchase resin in bulk and it is delivered to a silo, the resin may come from different batches from the supplier and is continuously mixed in the silo, is this considered a material of process change?

***This would fall under the scope of reasonable testing program. The testing program should be robust and reliable to detect significant variation in the samples.***

48) If a toy is comprised of 2 major components: one is manufactured at factory 'A' the second at Factory 'B' both are then collated and packed at factory 'B'. On the GCC whose is the manufacturer? Must you list both as a manufacturer?

***The term manufactured means to manufacture, produce, or assemble. Thus the person assembling two components can be considered as manufacturer. The manufacturer would still need to keep track of the supply chain for traceability if case of recall of the product.***

49) Would manufacturers identifying information be considered proprietary? (for certificate) Interested in clarification of warning labels If we are purchasing a turnkey product, but we give them the product specs (they are purchasing fabric, trim, etc.) are they considered the manufacturing of us the importer or are we considered the manufacturer?

***The business producing the goods will be considered as manufacturer.***

***The information on the Certificate of Compliance will not be considered proprietary. However, with the new rule issued by the CPSC, the detailed name and address of a manufacturer are not required to be disclosed. The only information required for Certificate is date and place of manufacturing (city/town and county of administrative origin).***

50) If the date of manufacture (starting Nov 12th) is the date that is to be used for the benchmark as new rule, what does that day actually mean? Is it the start/cut day or can it also be the date that the goods are in the packing section ready to be shipped?

***Date of manufacture will be the date when the product is ready to be shipped in its final form.***

51) Who in the supply chain is responsible for the mandatory 3rd party testing requirements, i.e. manufacturer, importer, distributor, etc.

***The person certifying that the product is compliant would be responsible for mandatory 3rd party testing of children's products.***

52) If I have direct imports to retailer of private label goods, does retailer in addition to the manufacturer + private labeler have to have a certificate of customs?

***A Certificate of compliance is not required by Customs. A certificate of compliance is required by the CPSC, and it needs to accompany the product and should be furnished to the distributor and private labeler. The CPSC has stated that an electronic certificate is "accompanying" a shipment if the certificate can be accessed via a World Wide Web URL or other electronic means, provided the URL or other electronic means and the unique identifier are created in advance and available with the shipment.***



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53) For the "General Conformity Certification", can we list our company as manufacturer even if we are not the direct manufacturer?

**No. Wrong information on the certificate would be considered as false certification that may lead to holding and/or destruction of goods, and to potential civil or criminal liability.**

54) As a distributor, what is my role in any vendor's compliance? Who's responsible?

**The person certifying the compliance of product would be legally responsible. However, it is a prudent approach to be proactive and be involved in the supply chain to ensure the product safety and compliance.**

55) What is required for domestic household chemical manufacturers? i.e. leach, laundry detergent.

**If your product is not regulated under any CPSC rule, regulation, standard or ban than you will not be affected by the CPSIA. However, common household cleaners and "under the kitchen sink" products, are highly regulated by the Poison Prevention Packaging Act. The CPSIA amends Section 14 of the CPSA to extend certification requirements to any consumer product regulated by a standard, ban, rule or regulation by the CPSA or any statute under CPSC jurisdiction. Therefore, if your products are highly regulated by PPPA or the Federal Hazardous Substances Act (FHSA), look into your certification obligations.**

### CPSIA Inquiries

56) How does one determine which CPSC standards or safety regulations apply to each product being certified in the GCC? How does one determine if there are multiple standards/regulations that apply to one product? If parts are molded in a family mold and/or multiple cavity molds, does each cavity need to be tested for lead and phthalates? Ex: checker in a checkers set

**Below is link that will serve as a good starting point for CPSC regulations affecting products:**  
<http://www.cpsc.gov/businfo/reg1.html>

**Intertek also works as a partner and guides in determining appropriate testing applicable to a product.**

57) Please outline the implications of the CPSIA on personal care cosmetics and OTC's

**The implication will have to be judged on a case-by-case basis. Factors affecting will be classification of item as children's product and whether Poison Prevention Packaging Act or any CPSC rule, regulation, standard or ban governs the product.**

58) What specific categories of consumer products are affected by the act?

**All the products that are regulated by any CPSC rule, standard, ban or regulation will be affected by CPSIA.**

59) On a toy GCC you must list each applicable standard. Would that include CPSIA section 213-stockpiling and other generic rules? Where do you draw the line?

**Section 213 is not required to be listed on the GCC. Regulatory lawyers could explain how the referenced provision is not, legally, a rule, regulation, standard or ban triggering §14 CPSA certification requirements.**



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60) Does the CPSIA apply to a manufacturer of generic injection molded parts that are offered for general sale, and may be bought by another company for use in a consumer product?

***CPSIA will apply if the molded parts are children's products or are regulated by any CPSC rules, regulation, ban or standard.***

61) Do we have to list product style #, sku, lot # & product UPC? Many times multiple styles are packed together and there is always multiple upc and sku #s for the same shipment. Too many to list.

***Certificate of compliance is required to accompany each product. If a shipment carries 20 different types of products, 20 certificates - one for each product will be required to accompany the shipment.***

62) Are there any voluntary standards that will be expected to be documented by certificates under sec.9 of the CPSIA i.e. blankets which have ASTM D 4151 as a voluntary standard?

***Listing of voluntary standards on Certificate of compliance is not required. Please note that ASTM 963 for children's toys is now a mandatory standard under the CPSIA.***

63) Many of our customers are not experts in these areas- how do we advocate them so that we don't have conflicting and misunderstanding of how new standards apply to books?

***Intertek works as a partner with clients and can offer them appropriate guideline and information to keep them abreast with the current regulatory information.***

64) How are children's books age graded for 12 and under?

***The CPSC has issued Age Grade Determination Guidelines that provides information on classification of toys and books in to various age categories.***

***They can be found at <http://www.cpsc.gov/BUSINFO/adg.pdf>***

***Intertek also offers service where the products are age graded and appropriate testing is recommended.***

65) How is the actual production date determined? Is it the first day the factory starts work on a product or the day it leaves the production line?

***The date of manufacturing will be the date the product is assembled in its final form.***

66) Can CPSC define age limit in terms of shoe size? How will they define 3 years and 12 years regarding sizes?

***Sizing is a voluntary standard in US. There is no direct correlation between age of child and shoe size. The design, size and foreseeable use of the shoe should be considered in order to determine appropriate testing.***

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67) Most of the material in this act is related to children's product in fact preamble to the act specifically states children's products. How did then, the issue of certify in adult flammability get included? Sec 102 Para 1 seems like an error; is it?

***Children's products are primary focus of the regulation. However, any product regulated by the CPSC rule, ban, standard, or regulation requires certification and are covered under the CPSIA.***

68) Will the CPSIA regulations going into effect on 8-14-09 truly affect products in inventory? What if your company inventories good for years on some styles?

***CPSIA regulation was enacted and became effective August 14, 2008. Lead content (substrate) and phthalate limits become effective February 10, 2009. Products offered for sale after this date must be in compliance with the lead content and phthalate requirements, including inventory.***

69) How do the new rules apply to footwear?

***CPSIA applies to children's footwear. They would now require compliance to lead content (substrate) limits in addition to any other applicable regulations.***

70) How do we define a lab as being accredited? Is there a listing somewhere?

***A list of the CPSC recognized third party testing labs can be found at:***  
<http://www.cpsc.gov/cgi-bin/labapplist.aspx>

71) Will a complete copy of all CPSC regulations (CPSIA 8/08) discussed at the meeting be available in hard copy - or downloadable?

***The CPSC regulations are available in electronic format at:***  
[http://www.access.gpo.gov/nara/cfr/waisidx\\_08/16cfrv2\\_08.html](http://www.access.gpo.gov/nara/cfr/waisidx_08/16cfrv2_08.html)  
<http://www.cpsc.gov/about/cpsia/legislation.html>

72) How do new certification requirements affect class 1, 2, 3, jewelry?

***Classification of jewelry (Class 1, 2 and 3) is defined in a Proposition 65 settlement for jewelry. Compliance to state regulation is not required to be listed on CPSIA Certificate of Compliance.***

73) How does the new certification requirement affect children's jewelry vs. adult jewelry?

***Children's jewelry would require being compliant to CPSC lead in children's metal jewelry requirements and a certificate declaring the same.***

***Currently, adult jewelry is not regulated by the CPSC and will not require testing per CPSC regulation or a certificate of compliance. Please note that the State of California and Minnesota among other states have regulation governing adult jewelry.***

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### Legislation Inquiries

74) We sell arts & crafts. Putting a date code on decorative items may cause them to lose any aesthetic value, or they may be too small to bear a date code. Will the law be amended to include such a waiver?

***If your product is not classified as Children's products then you do not require a tracking label. The CPSC will provide guidelines for tracking labels. On February 20, the CPSC issued a Notice of Inquiry requesting comments and information about implementation of this program. But until they exempt certain class of children's products you would require compliance to all requirements. Please note the legislation addresses tracking labels on products and packaging.***

75) How does the government define a "batch" in terms of production?

***The term 'batch' is not defined in FHSA, CPSA, PPPA, FFA or other CPSC acts.***

76) Where does legislation stand for mandatory labeling exemption for bulk vending?

***The labeling is required for advertisements at any point of purchase, for example internet, or catalogues. The labeling is not required for business to business catalogues, unless the recipient business is one that could be expected to be purchasing the product for the use of children instead of for resale. Examples of businesses that could be expected to purchase products for the use of children include schools, day care centers, churches, and recreational facilities.***

77) Does this truly supersede all state laws or are some states "balking" at the idea?

***CPSIA will pre-empt state laws regulating same hazard. However, the state can apply from exemption to the CPSC. Currently, 4 states have applied for preemption of their state laws: NY, AZ, IL and CA.***

***CPSC staff has said new lead limits for lead paint and lead content preempt state law as do the new provisions on phthalates and ATVs. The provision mandating the voluntary toy safety standard ASTM F963-07 as a mandatory consumer product safety standard is also preemptive although there Congress has provided a mechanism to grandfather in certain existing state laws on toy safety.***

### Certification Inquiries

78) If we have production from Oct. shipping and in Nov. do we need a certificate?

***No, products manufactured in October 2008 will not require certificate of compliance.***

79) Majority of what we do is private label. What do we do? Is our certificate sufficient? In regards to 3rd party testing, we have multiple reports from different labs, do we need to list each lab?

***A Private labeler is not required to certify. The certificate of compliance has to be provided by importer or domestic manufacturer.***

***Each CPSC recognized third party testing lab that conducted testing of product should be listed.***

**Asia Pacific**

Tel: + 852 2173 8888

**North America**

Tel: +1 630 481 3111

**Latin America**

Tel: +1 305 513 3000

**Europe, Africa, Middle East**

Tel: +1 305 513 3000



## Frequently Asked Questions of the CPSIA - Version 2

80) Where do we find an authoritative list by product category of what standards we are to certify compliance with?

***Below is link that will serve as a good starting point for CPSC regulations affecting products:***

***<http://www.cpsc.gov/businfo/reg1.html>***

***Intertek also works as a partner and guides in determining appropriate testing applicable to a product.***

81) What exemptions are available for books?

***Ordinary books (printed after 1985) are exempted. See below link:***

***<http://www.cpsc.gov/cpscpub/prerel/prhtml09/09120.html>***

***The CPSC is currently working on possible exemptions to the lead content limits and requirements to test. Recently it announced an interim enforcement policy, which states that the agency will not impose penalties against anyone for making, importing, distributing or selling a children's product to the extent that it is a children's book printed after 1985 that is conventionally printed and intended to be read, as opposed to being used for play. However, the materials or components must not have been treated or altered or undergone any processing that could result in the addition of lead.***

82) On a GCC for a toy you must list applicable regulations. Is it proper to list "Meets 16 CFR 1500" or must we list each specific sub group. i.e.1500.19, 1500, 49 etc.?

***Blanket statements declaring compliance – for example 16 CFR 1500 cannot be used. Each specific requirement must be listed – 16 CFR 1500.19, 15 CFR 1500.44, etc.***

83) For the detail description of the product if it is the same production run, same factory different delivery date and different packaging can one certificate be used?

***The description should be detailed enough to uniquely identify the product from the certificate.***

84) Are there any special regulations or areas to be aware of for ride on toys that are not bikes?

***ANSI has standards, and ASTM F963 has sections addressing ride on toys and tricycles.***

85) What is the format of the certificate and are they required on every import and export?

***The details of the content of certificate can be found at the following link:***

***<http://www.cpsc.gov/businfo/frnotices/fr09/certification.pdf>***

***All the consumer products falling under the scope of the following CPSC rules will require a certificate when importing:***

- 1) 16 CFR 1303 – Lead in paints and similar surface coatings***
- 2) 16 CFR 1501 – Small parts***
- 3) Lead in Children's Metal Jewelry***
- 4) 16 CFR 1508/1509 – Non-Full and full size cribs***
- 5) 16 CFR 1511 – pacifiers***



## Frequently Asked Questions of the CPSIA - Version 2

86) Does a certificate need to be attached to each carton or only w/ the shipping docs?

***The certificate needs to accompany each product when imported and should be furnished to the distributor and retailer. There is no requirement of how this may be achieved. However, the CPSC states that this requirement is satisfied if the importer or U.S. manufacturer provides its distributors and retailers a reasonable means to access the certificate.***

87) Does the certificate need to be supplied at time of customs entry or IOR needs to just have on file if requested from customs?

***Customs does not require a Certificate of Compliance at port of entry to release shipment. However, it should accompany the product so if the CPSC opens the shipment it is available for their review.***

88) Does Certification guarantee a product meets improved CPSIA regulation regarding lead PPM?

***No. You have to meet CPSIA requirements by testing per set methods specified per CPSC regulations, act, rule or ban.***

89) What form do we have to do this year?

### ***For Calendar year 2008-***

- ***Effective October 12, 2008, no product packaging, advertisements or labels can refer to any safety standard unless the product complies with the standard.***
- ***Effective November 12, 2008 - Products manufactured on or after November 12, 2008 required certification to all existing CPSC rules, regulation, ban or act. This requirement has been modified due to the stay of certification by the CPSC.***
- ***Effective December 12, 2008 Warning labels, where applicable, are required for Internet advertisement.***
- ***Effective December 21, 2008 the certification of lead in paint/surface coating has to be based on testing at a CPSC recognized third party lab.***

### ***For Calendar year 2009-***

- ***Effective January 20, 2009, Certification based on third party testing for cribs and pacifiers (16 CFR 1508, 1509 & 1511)***
- ***Effective February 10, 2009:***
  - o ***Lead content (substrate) limit of 600 parts per million (ppm)***
  - o ***Phthalates limits comes in to effect***
  - o ***ASTM F963-07 becomes mandatory toy standard***
- ***Effective February 15, 2009, Certification based on third party testing for small parts (16 CFR 1501.***
- ***Effective March 23, 2009, Certification based on third party testing for Lead in children's' metal jewelry.***
- ***Effective August 14, 2009:***
  - o ***Lead in paints, similar surface coating (16 CFR 1303) – limit drops to 90 ppm from 600 ppm***
  - o ***Lead content (substrate) – limit reduces to 300 ppm from 600 ppm***
  - o ***Tracking labels required for products manufactured effective August 14, 2009***
- ***Effective November, 2009: The Commission shall by regulation***
  - o ***initiate a program by which a manufacturer or private labeler may label a consumer product as complying with the certification requirements***
  - o ***establish protocols and standards for ensuring compliance with children's product safety rules when there has been a change in product's design etc***



## Frequently Asked Questions of the CPSIA - Version 2

- o *establish protocols and standards for testing of random samples*
- o *establish protocols and standards for verifying that a product tested by a conformity assessment body complies with children's product safety rule*
- o *establish protocols and standards for safeguarding against the exercise of undue influence on a third party conformity assessment body by manufacturer*

*Please note, however, that the CPSC has recently granted a one year stay of testing and certification requirements for certain products. For more information, please see:*  
<http://cpsc.gov/cpscpub/prerel/prhtml09/09115.html>

90) Is a date range (over a few days) acceptable for date of manufacture on a certificate?

*Date of manufacturing can be a month and year.*

### Miscellaneous Inquiries

91) How do we keep confidential sourcing data factory names out of customer's hands?

*Details of the manufacturer are not required.*

*The certificate only requires Date (month and year at a minimum) and place (including city and state, country, or administrative region) where the product was manufactured. If the same manufacturer operates more than one location in the same city, the street address of the factory in question should be provided.*

92) Is it acceptable to require the user to scroll down the page to see it, click a link with a title called "click here for safety information" have an information tab listing the information, or have a pop up with required information?

*As of today, abbreviated warnings are not permissible for internet warning labels. Thus appropriate warning labels, in required size and format per 16 CFR 1500.19 and 1500.121, will be required.*

93) What is the definition of "durable"?

*Congress did not define the term "durable," but it is commonly understood to mean able to exist for a long time without significant deterioration.*

94) When does the IOR need to have this with their shipments - starting as of which date?

*Please see question 85.*

95) How will inventory have to be handled?

- *The lead ban will apply retroactively to the inventory.*
- *The phthalates ban will apply retroactively to the inventory.*

*As of February 10, 2009 – all products sold and manufactured must be in compliance with the lead and phthalate requirements of the CPSIA, including inventory.*



## Frequently Asked Questions of the CPSIA - Version 2

96) Does the conformity letter still need to be placed inside of each inner and master carton of the shipment?

***No, as long as the certificate for each type of product accompanies the shipment it is not required to be placed inside each master carton. Electronic certification is another viable option. The CPSC has stated that an electronic certificate is "accompanying" a shipment if the certificate can be accessed via a World Wide Web URL or other electronic means, provided the URL or other electronic means and the unique identifier are created in advance and available with the shipment.***

***Please see question 52.***

97) Recommendations for General Conformity Certifications?

**The CPSC has guidelines and FAQ's that serve as an excellent reference for the GCC.  
(<http://www.cpsc.gov/businfo/frnotices/fr09/certification.pdf>)**

**Also, a CPSC model GCC can be found at <http://cpsc.gov/about/cpsia/faq/elecfaq.pdf>**